



Docket No.: SON-2842
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Takashi AOKI, et al

Application No.: 10/526,490

Confirmation No.: 7483

Filed: March 4, 2005

Art Unit: 2624

For: IMAGE PROCESSING APPARATUS AND
IMAGE PROCESSING METHOD

Examiner: N. Bitar

PETITION UNDER 37 C.F.R. § 1.181
TO REQUEST WITHDRAWAL OF NOTICE OF NON-COMPLIANT AMENDMENT

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Background

The Notice contends that the document filed on June 11, 2008 is considered non-compliant because it has failed to meet the requirements of 37 C.F.R. §1.121. Specifically, the Notice asserts that, regarding Amendments to the specification, the Remarks/Conclusion should be on a separate sheet. A copy of this Notice is provided along with this Petition as ATTACHMENT A.

Accordingly, this Petition pursuant to 37 C.F.R. §1.181 is proper.

Arguments

A Response to the Office Action was filed on June 11, 2009. The Response includes an amendment to the withdrawn claims responding to the Office Action mailed on April 28, 2008.

Please note that the requirements of 37 C.F.R. §1.121 set forth the manner of making amendments in an application.

Claims 7 and 13 include status identifiers indicating: (Withdrawn-Currently Amended)

MPEP § 714(II)(C) recites:

(A)Status Identifiers: The current status of all of the claims in the application, including any previously canceled or withdrawn claims, must be given. Status is indicated in a parenthetical expression following the claim number by one of the following status identifiers: (original), (currently amended), (previously presented), (canceled), (withdrawn), (new), or (not entered). The status identifier **(withdrawn – currently amended)** is also acceptable for a withdrawn claim that is being currently amended. See paragraph (E) below for acceptable alternative status identifiers.

MPEP § 714(II)(C)(A) (Emphasis Added)

The Notice of Non-Compliance cites the basis for non-compliance as being that:

Claim 7 and 13 are non-compliant claims because they recites two labels (WITHDRAWN and CURRENTLY AMENDED) at the same time while one label is required.

Continuation Sheet to Notice of Non-Compliance

Applicant notes that this basis is cited despite the fact that the face of the Notice of Non-Compliance clearly indicates that status identifiers may be any “*one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and **(Withdrawn-currently amended)**.*”

Relief

Upon this Petition, withdrawal of the Notice of Non-Compliant Amendment (37 C.F.R. 1.121) mailed on July 25, 2008 is respectfully requested.

Fee

No fee is believed required to support this Petition. See 37 C.F.R. §1.181.

However, if a fee is required, the Commissioner is hereby authorized to charge the fee to our Deposit Account No. 18-0013, under Order No. SON-2842 from which the undersigned is authorized to draw.

Dated:

August 6, 2008

Respectfully submitted,

By

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Attachment: Copy of Notice of Non-Compliant Amendment



**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/526,490

Examiner

NANCY BITAR

Applicant(s)

AOKI ET AL.

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 11 June 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.



Continuation of 4(e) Other: Claim 7 and 13 are non-compliant claims because they recites two labels (WITHDRAWN and CURRENTLY AMENDED) at the same time while one label is required. Newly added claims 15-16 has nor been examined in the final rejection and require further search and consideration.